

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TEACHERS4ACTION, et al., :

Plaintiffs, :

-against- :

MICHAEL G. BLOOMBERG, et al., :

Defendants. :

----- X

08 Civ. 0548 (VM) (AJP)

ORDER


ANDREW J. PECK, United States Magistrate Judge:

By letter dated February 13, 2008 (copy attached), plaintiffs' counsel has requested more time to file the Amended Complaint. The Court extends the deadline to file the Amended Complaint to February 22, 2008 at 5:00 p.m. (4 days more than plaintiff requested). Obviously, it can be filed sooner than the deadline. The Court notes that it asked plaintiffs' counsel several times if he needed more time and was told "no" – plaintiffs' counsel should stop asking for "short" deadlines (when the Court is willing to give more time) and then not meeting his own deadlines and asking the Court for more time. That is a waste of my time!

Discovery remains stayed until further Court order.

SO ORDERED.

Dated: New York, New York
February 14, 2008



Andrew J. Peck
United States Magistrate Judge

Copies **by fax & ECF** to: Edward D. Fagan, Esq.
Blanche Greenfield, Esq.
Judge Victor Marrero

EDWARD D. FAGAN ESQ.

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Via Fax (212) 805-7933

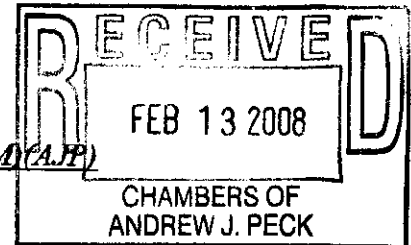
Wednesday 13 February 2008

Honorable Andrew J. Peck USMJ

United States District Court - Southern District of New York

500 Pearl Street, Chambers

New York, NY 10007



Re: Teachers4Action et al v. Bloomberg et al, 08-cv-548 (VM)(AJP)

Honorable Judge:

I am counsel for the Plaintiffs in the above referenced matter. Pursuant to Your Honor's Individual Rule 1. E., I write to request a brief extension from today until Monday Feb. 18th at 5 pm within which the file the Amended Complaint. The Feb. 13th date was set at the Feb. 8th Conference and was an extension from the original date of Feb. 4th.

Prior to making this request, I sought consent of Counsel for the City of New York (*See attached email to Blanche Greenfield*). However as of this writing, no response was received.

The basis for the request is set forth in the attached email from Plaintiff Florian Lewenstein. (*See attached email from Florian Lewenstein to Ed Fagan*).

As explained in Lewenstein's email, Plaintiffs are reporting, among other things, instances (i) of harassment, retaliation and violations of their contractual, statutory, constitutional and due process rights; (ii) where Plaintiffs and others who wanted to be Plaintiffs are threatened that if they are associated with this case, they could be exposed to new disciplinary charges and expedited 3020a hearings; (iii) Plaintiffs are being deprived of appointed counsel because of a possible conflict of interest resulting from participation in this case, and a number of other Plaintiffs became frightened and withdrew on the basis of that statement alone; (iv) Plaintiffs are subjected to expedited 3020a hearing processes and (v) Plaintiffs are subjected to arbitrary confinement, threats of suspensions, termination and increased fines. As noted in Lewenstein's email, Plaintiffs are trying very hard to get the materials together in the form that Your Honor described at last Friday's conference but the volume of people who want to be Plaintiffs is making that impossible. The Plaintiffs report they would have had the materials to me in a timely fashion and in a form so that the Amended Complaint could have been finished. However, they report that they are being retaliated against and the retaliation is getting worse. There are increased restrictions placed on them in Rubber Rooms, and threats related to the 3020a hearing process that have had a "chilling" affect on our ability to work and protect our rights.

In view of the foregoing, I respectfully request that Your Honor grant this brief extension.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Edward D. Fagan".

Edward D. Fagan

Attached Emails - 2 pages

Cc: Blanche Greenfield Esq. - Via Fax

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2/13/08 1:34 PM



Edward Fagan <faganlaw@gmail.com>

Application for Additional Time

1 message

Florian Lewenstein <florianjl@gmail.com>

To: Edward Fagan <faganlaw@gmail.com>

Wed, Feb 13, 2008 at 1:03 PM

Dear Mr. Fagan:

Please inform Judge Peck and the Attorney for the City on our behalf that we need a little additional time to finalize the Amended Complaint.

Please tell Judge Peck and the City's attorney that we are working as hard as we can and investing many overtime hours, and we know you are doing the same. However, we are having trouble meeting today's deadline.

We are being inundated with calls from teachers who are reporting instances of harassment, retaliation and violations of their contractual, statutory, constitutional and due process rights. We have also received reports that plaintiffs and others who wanted to be plaintiffs are being threatened that if they are associated with our Federal action, they could be exposed to new disciplinary charges and expedited 3020a hearings. Our plaintiffs are also being told that they do not have the right to a three member panel or an impartial arbitrator, as required by 3020a law. At least one of our plaintiffs has been told that he might be deprived of his appointed counsel because of a possible conflict of interest resulting from our action, and a number of other plaintiffs have withdrawn just on the strength of that statement. Other plaintiffs or people who wanted to be plaintiffs have also reported that they are being subjected to expedited 3020a hearing processes and others have reported that they are being subjected to arbitrary confinements and threats of suspensions, termination and increased fines.

We are trying very hard to get the materials together in the form that Judge Peck described at Friday's conference, but the volume of people who want to be plaintiffs is making that impossible. Even if we take only half the plaintiffs for this amended filing and appeal to Judge Peck to allow us to add the others at a later time, the volume of work is daunting. We would have had the materials to you in a timely fashion and in a form that together we could have finished the Amended Complaint. However, we are being retaliated against and it is getting worse. The increased restrictions on us in the Rubber Rooms and the increased retaliations and threats related to the 3020a hearing process have had a "chilling" affect on our ability to work and protect our rights.

We are preparing the information for you about this and the retaliation, intimidation and threats, so that it can be placed before the Court early next week.

Please do whatever you can to get us this additional time and to try to get the defendants to stop the retaliation and threats.

I am ready to provide a Declaration for the Court confirming these statements to be true. However for the sake of expedience, you may use this email to show the Court and attorney for the City what is going on to support this request.

Thank you.

Florian Lewenstein
President,
Teachers4Action
and Plaintiff

Gmail - Teachers4Action et al v Bloomberg et al 08-cv-0548 (VM)

2/13/08 12:47 PM



Edward Fagan <faganlaw@gmail.com>

Teachers4Action et al v Bloomberg et al 08-cv-0548 (VM)

1 message

Edward Fagan <faganlaw.teachers@gmail.com>**Wed, Feb 13, 2008 at 11:19 AM****To: BGreenfi@law.nyc.gov****Cc: faganlaw@gmail.com, faganlawintl@aim.com**

Blanche:

It is taking the Teachers longer than expected to provide me with their individual materials with which to incorporate them all into the Complaint.

This is in part the result of the time it is now taking to conform all descriptions according to the directions of the Court last Friday. Another reason is that there have been various acts of retaliation against the Teachers that have interfered with their ability to work on this matter (i) from 8 - 3 while they are in the Rubber Rooms and (ii) after 3 pm when many of them are having to deal with other actions being taken against them related to the 3020a hearing process. Remember, as we have explained, prior to the filing of this action while sitting in the Rubber Rooms the plaintiffs were free to work on their computers, meet and consult with one another and do almost anything they wished, since they have no assignments or work responsibilities. That change and the other retaliation has caused an unexpected delay.

I will continue to provide you with the summaries of teachers who are to be named plaintiffs as they are received.

In light of this explanation, will you consent to a Voluntary Extension until Monday February 18th at 5 pm by which to file the Amended Complaint?

Please advise by return email so I can inform the Court.

Thank you.

Ed Fagan
